

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,592

IN THE MATTER OF:

Served May 15, 2015

CAR PLUS TRANSPORTATION LLC,)
Suspension and Investigation of)
Revocation of Certificate No. 2054)

Case No. MP-2014-099

This matter is before the Commission on respondent's response to Order No. 15,265, served December 30, 2014.

I. BACKGROUND

Under the Compact, a WMATC carrier may not engage in transportation subject to the Compact if the carrier's certificate of authority is not "in force."¹ A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.²

As of January 31, 2014, Commission Regulation No. 58 required respondent to insure the revenue vehicles operated under Certificate No. 2054 for a minimum of \$5 million in combined-single-limit liability coverage and maintain on file with the Commission at all times proof of coverage in the form of a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

The \$3 million, excess of \$2 million, WMATC Insurance Endorsement on file for respondent expired on January 31, 2014, without replacement. Order No. 14,893, served July 3, 2014, noted the automatic suspension of Certificate No. 2054 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 2054, and gave respondent 30 days to replace the terminated endorsement and pay the \$100 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 2054.

Respondent submitted a \$3 million, excess of \$2 million, WMATC Insurance Endorsement on July 10, 2014, with an effective date of December 31, 2013, and respondent paid the \$100 late insurance fee on July 24, 2014.

Also on July 24, 2014, respondent submitted an application to add a 15-person seating capacity restriction to Certificate No. 2054. The Commission conditionally approved the application in Order

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

No. 14,939 on July 25, 2014.³ Adding the seating capacity restriction to Certificate No. 2054 confines respondent's operations to vehicles with a seating capacity of 15 persons or less, including the driver, and reduces to \$1.5 million respondent's minimum insurance obligation under Commission Regulation No. 58.

The conditions of approval in Order No. 14,939 included the requirement that respondent file one or more WMATC Endorsements showing a minimum of \$1.5 million in coverage. Respondent filed a \$1.5 million WMATC Endorsement on July 14, 2014, with an effective date of June 1, 2014, and otherwise satisfied the conditions of approval, and Certificate No. 2054 was reissued on October 8, 2014.

During the course of this proceeding, it was discovered that on May 30, 2013, when the minimum insurance requirement for Certificate No. 2054 was still \$5 million, and the Commission had on file for respondent a \$2 million primary WMATC Endorsement and \$3 million excess WMATC Endorsement, respondent filed a \$1.5 million primary WMATC Endorsement with an effective date of June 1, 2013. Under Regulation No. 58-07(e), this had the effect of terminating coverage under the \$2 million primary endorsement already on file, leaving respondent without WMATC insurance coverage for the portion of any property damage and bodily injury claims in excess of \$1.5 million but less than \$2 million - thus creating a \$500,000 gap and causing the automatic suspension of Certificate No. 2054 under Regulation No. 58-12. The gap lasted from June 1, 2013, until December 31, 2013, the effective date of a \$2 million primary WMATC Endorsement filed by respondent on January 8, 2014.

Order No. 15,108, served October 8, 2014, accordingly gave respondent 30 days to verify cessation of operations as of June 1, 2013, as corroborated by copies of respondent's pertinent business records and insurance claims data, in accordance with Regulation No. 58-14. Respondent did not respond within the 30-day deadline, and the Commission issued Order No. 15,265 on December 30, 2014, directing respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 2054, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.

II. RESPONSE TO ORDER NO. 15,265

Respondent's owner, Balemlay Gebeyehu, filed a statement on January 14, 2015, that characterizes respondent's failure to respond to Order No. 15,108 as inadvertent, but instead of confirming timely cessation of WMATC operations, the January 14 statement reads as follows: "Also at the time from June 1, 2013 to December 31, 2013 I had an authority to operate from the PSC under National Limousine Inc.

³ *In re Car Plus Transp. LLC*, No. AP-14-226, Order No. 14,939 (July 25, 2014).

Carrier #312. During this period Any insurance changes was also handled by the carrier who granted me operating authority from PSC."

Mr. Gebeyehu's statement does not confirm cessation of WMATC operations from June 1, 2013 to December 31, 2013. At best, it offers an argument as to why any operations that might have occurred while Certificate No. 2054 was suspended were not unlawful - an argument that lacks support.

Inasmuch as respondent was based in Maryland in 2013,⁴ "PSC" presumably refers to the Maryland Public Service Commission (MDPSC). Currently, no carrier appears on the MDPSC website with the name National Limousine Inc., and no carrier appears on said website with permit no. 312.⁵ In addition, the Maryland Department of Assessments and Taxation website shows that the only Maryland corporation by the name of National Limousine, Inc., was dissolved in August 2007.⁶ Mr. Gebeyehu offers no corroborating documents in support of his statement, as directed by Order No. 15,108, in any event.

III. ASSESSMENT OF FORFEITURE AND REVOCATION OF AUTHORITY

A person who knowingly and willfully violates a provision of the Compact, or a rule, regulation, requirement, or order issued under it, or a term or condition of a certificate shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation.⁷

The Commission may suspend or revoke all or part of any certificate of authority for willful failure to comply with a provision of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.⁸

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁹ The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, they describe conduct marked by intentional or careless disregard or plain indifference.¹⁰

Because respondent has failed to produce corroborating records as required by Regulation No. 58-14(a), and as directed by Order No. 15,108, and because respondent has offered no explanation for this noncompliance, we find that respondent has failed to show cause why

⁴ Respondent's 2013 principal place of business address is now respondent's mailing address.

⁵ See www.psc.state.md.us.

⁶ See <http://sdat.resiusa.org/ucc-charter/>.

⁷ Compact, tit. II, art. XIII, § 6(f).

⁸ Compact, tit. II, art. XI, § 10(c).

⁹ *In re Heaven On Wheels LLC*, No. MP-07-238, Order No. 11,641 (Oct. 24, 2008).

¹⁰ *Id.*

the Commission should not assess a civil forfeiture of \$250¹¹ and revoke Certificate No. 2054.¹²

THEREFORE, IT IS ORDERED:

1. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against respondent in the amount of \$250 for knowingly and willfully violating Regulation No. 58-14(a) and Order No. 15,108.

2. That respondent is hereby directed to pay to the Commission within thirty days of the date of this order, by money order, certified check, or cashier's check, the sum of two hundred fifty dollars (\$250).

3. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 2054 is hereby revoked for respondent's willful failure to comply with Regulation No. 58-14(a) and Order No. 15,108.

4. That within 30 days from the date of this order respondent shall:

- a. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- b. file a notarized affidavit with the Commission verifying compliance with the preceding requirement; and
- c. surrender Certificate No. 2054 to the Commission.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER AND HOLCOMB:



William S. Morrow, Jr.
Executive Director

¹¹ See *id.* (assessing \$250 for failing to produce documents).

¹² See *id.* (revoking authority for failing to produce documents corroborating verification of suspension compliance); see also *In re Marbec LLC, t/a Marbec Limo. Servs. LLC*, No. MP-06-052, Order No. 10,346 (Mar. 23, 2007) (revoking authority for failing to submit suspension-compliance verification under oath and for failing to produce corroborating documents).